New York State Department of State Division of Coastal Resources and Waterfront Revitalization

Limits on State Expenditures in Hazard Areas

309 Project of Special Merit

Final Performance Report
to the Office of Ocean and Coastal Resources Management
National Ocean Service
National Oceanic and Atmospheric Administration
U.S. Department of Commerce

June 1994

INTRODUCTION

This is the 3rd and final performance report on the progress of activities related to creating an executive order to limit state agency expenditures in coastal hazard areas and Coastal Barrier Resource Areas (CBRA) within the State of New York. This action was recommended by the State Task Force on Coastal Resources, and recently by the Governor's Task Force on Coastal Erosion. To implement this recommendation and achieve the objectives within the 309 Grant from the Office of Ocean and Coastal Resources Management, the Department of State, Division of Coastal Resources and Waterfront Revitalization began by investigating the potential impacts of such an executive order. Based on this analysis, it was concluded that the executive order target those activities funded by the State which encourage new development in coastal hazard areas (FEMA V-zones and State Coastal Erosion Hazard Areas). A draft executive order was prepared using the CBRA legislation and information developed in the analysis of impacts.

REVIEW OF EXECUTIVE ORDER AND SUBMISSION TO GOVERNOR'S OFFICE

During this quarter the draft executive order was thoroughly reviewed by Department of State (DOS) legal staff and appropriate changes where incorporated. Additional in-house review and discussion followed to further refine the executive order. The revised executive order and the analysis of potential impacts were distributed to pertinent State agencies for review (attachment 1). At the same time, a copy of the executive order was sent to the Governor's office for consideration (attachment 2).

One significant issue identified in the reviews is how the executive order will be implemented. As presently written, most actions which promote new development through the use of State funds in Coastal Barrier Resource Areas and coastal hazard areas are prevented unless exception is granted by DOS. This could be viewed unfavorably by other agencies, thus jeopardizing acceptance by the Governor's Office. Alternatively, compliance with the executive order could be left to the discretion of the individual agencies, but this could result in ineffective application. A middle ground would be for DOS to develop specific guidelines for agency application of the executive order. The manner in which compliance with the executive order will be enforced will be determined after review comments are received from other agencies and the Governor's office.

It is anticipated that comments from other agencies and the Governor's Office will be received during the next month. These comments will be used to revise the executive order into a final form for submission to the Governor for signature.



STATE OF NEW YORK DEPARTMENT OF STATE ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER SECRETARY OF STATE

MEMORANDUM

TO:

Honorable Rudy Runko

Director, Division of the Budget

FROM:

Gail S. Shaffer

SUBJECT:

Proposed Executive Order on State Agency Expenditures in Coastal Hazard Areas

In its November 1991 report, the Governor's Task Force on Coastal Resources recommended that: "The Governor should issue an Executive Order requiring State Agencies to limit public subsidies and expenditures in federally identified Coastal Barrier Resources Act areas, in coastal hazard areas, and in additional areas identified in the regional elements...." The Governor's Coastal Erosion Task Force is making a similar recommendation to: "Limit State agencies from expending funds which promote new development in coastal hazard areas and Coastal Barrier Resources Act areas."

In accordance with these recommendations, the Department of State's Division of Coastal Resources and Waterfront Revitalization analyzed the potential impacts that this Executive Order could have. The analysis concluded that the Order should focus only on prevention of new development in coastal hazard areas and coastal barrier resource areas. A copy of the analysis, explaining the Coastal Barrier Resource Act, is provided for your information.

Based on the analysis, a proposed Executive Order has been prepared. I would appreciate receiving your comments by July 29th on the enclosed copy. In particular, I would value your thoughts on the exceptions to the Executive Order. As presently worded, many exceptions would be contingent upon approval by the Department of State. Alternatively, policing of exceptions could be left to interpretation by individual State agencies. A possible middle ground is for the Order to direct the Department of State and/or others to develop specific guidelines which would provide a basis for self-policing by agencies. Upon receipt of your comments, we will revise the proposed Executive Order and forward it to the Governor's Office.

GSS:1vs Attachment

cc:

Joe Martens



STATE OF NEW YORK DEPARTMENT OF STATE ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER SECRETARY OF STATE

MEMORANDUM

TO:

Honorable Langdon J. Marsh, Commissioner

Department of Environmental Conservation

FROM:

Gail S. Shaffer

SUBJECT:

Proposed Executive Order on State Agency Expenditures in Coastal Hazard Areas

In its November 1991 report, the Governor's Task Force on Coastal Resources recommended that: "The Governor should issue an Executive Order requiring State Agencies to limit public subsidies and expenditures in federally identified Coastal Barrier Resources Act areas, in coastal hazard areas, and in additional areas identified in the regional elements...." The Governor's Coastal Erosion Task Force is making a similar recommendation to: "Limit State agencies from expending funds which promote new development in coastal hazard areas and Coastal Barrier Resources Act areas."

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cc:

Joe Martens



STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER SECRETARY OF STATE

MEMORANDUM

TO:

Honorable Joan Davidson, Commissioner

Office of Parks, Recreation and Historic Preservation

FROM:

Gail S. Shaffer

SUBJECT:

Proposed Executive Order on State Agency Expenditures in Coastal Hazard Areas

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GSS:lvs Attachment

cc: Joe Martens



STATE OF NEW YORK DEPARTMENT OF STATE ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER
SECRETARY OF STATE

MEMORANDUM

TO:

Honorable Vincent Tese, Commissioner

Department of Economic Development

FROM:

Gail S. Shaffer

SUBJECT:

Proposed Executive Order on State Agency Expenditures in Coastal Hazard Areas

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GSS:Ivs Attachment

cc: Joe Martens



STATE OF NEW YORK DEPARTMENT OF STATE ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER SECRETARY OF STATE

MEMORANDUM

TO:

Anthony Germano, Director

State Emergency Management Office

FROM:

Gail S. Shaffer

SUBJECT:

Proposed Executive Order on State Agency Expenditures in Coastal Hazard Areas

In its November 1991 report, the Governor's Task Force on Coastal Resources recommended that: "The Governor should issue an Executive Order requiring State Agencies to limit public subsidies and expenditures in federally identified Coastal Barrier Resources Act areas, in coastal hazard areas, and in additional areas identified in the regional elements...." The Governor's Coastal Erosion Task Force is making a similar recommendation to: "Limit State agencies from expending funds which promote new development in coastal hazard areas and Coastal Barrier Resources Act areas."

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GSS:lvs Attachment

cc:

Joe Martens

Executive Order No. : Limiting expenditure of State funds which promote new development in coastal barrier resource and coastal hazard areas.

WHEREAS, new development in coastal hazard areas could significantly increase the threats to public health and safety from the effects of hurricanes, winter storms, and long term erosion and flooding; and

WHEREAS, continued development in coastal barrier resource areas and coastal hazard areas could significantly increase the economic burden to the public for emergency response and protection from long term erosion and flooding; and

WHEREAS, sea level rise can be expected to continue in the future causing increased shoreline erosion and flooding, thus increasing the potential for damage to new development in hazard areas; and

WHEREAS, such areas as designated coastal barrier resource areas are worthy of protection because of their open space character, aesthetic value, and wealth of natural resources unique in New York;

NOW, THEREFORE, I, Mario M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby order that all State agencies cease expenditure of present and future funds in coastal hazard areas and coastal barrier resource areas, which promote new residential and non-residential development, except as noted below. Such funds include, but are not limited to, contracts, grants, loans, cooperative agreements, use of equipment and personnel, and other direct and indirect expenditures which promote or guarantee construction of infrastructure, utilities, any structures, or other projects which facilitate, expedite, plan, or otherwise aid in the potential promotion of new development of coastal hazard areas and coastal barrier resource areas. Such projects also include construction or purchase of any road, airport, boat landing facility or other facility on, or bridge or causeway to, any coastal hazard area or coastal barrier resource area; and the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, nearshore or inshore area, except as noted below.

I. Definitions

- A. The term "coastal barrier resource area" shall mean any one of the 90 marine or Great Lakes coastal areas designated and mapped under the Coastal Barrier Resources Act of 1982, (P.L. 97-348), and any areas designated and mapped under the Coastal Barrier Improvement Act of 1990 (P.L. 101-591), as administered by the U.S. Fish and Wildlife Service, and any future designations that may occur through amendments to these laws. Copies of maps showing the boundaries of designated coastal barrier resource areas in New York State are available from the U.S. Fish and Wildlife Service and the New York State Department of State.
- B. The term "coastal hazard area" shall mean any marine or Great Lakes coastal area included within the Erosion Hazard Area as designated by the State Department of Environmental Conservation pursuant to the Coastal Erosion Hazard Areas Act of 1981 (Article 34 of the Environmental Conservation Law), and any marine or Great Lakes coastal area included within a V-zone as designated on Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency pursuant to the National Flood Insurance Act of 1968 (P.L. 90-448) and the Flood Disaster Protection Act of 1973 (P.L. 93-234). This Executive Order includes changes to the map boundaries of Erosion Hazard Areas and V-zones as they may be adjusted to account for changes in coastal conditions. Copies of maps showing the Erosion Hazard Area boundary are available from the Department of Environmental Conservation. Copies of maps showing the boundary of V-zones are available from the Federal Emergency Management Agency, the Department of Environmental Conservation, the Department of State, and local government offices.
- C. The term "new development" means any land or water use activity, construction, or placement by any person of a structure or appurtenance, or any action which materially alters the condition of subaerial and submerged lands and waters, including grading and excavating or other disturbance of the soil which commences after the date of this Executive Order. New development also includes additions to existing structures which result in a 25 percent or greater increase in usable space, and restoration of a structure, the cost of which equals or exceeds 50 percent of the estimated full replacement cost of the structure at the time of restoration.
- D. The term "State agency" means any department, bureau, commission, board, public authority, or other entity of the government of the State of New York, including any public benefit corporation, any member of which is appointed by the Governor.

II. Exceptions

- A. This order is not intended to preclude expenditures by federal agencies determined to be consistent with the New York State Coastal Management Program, nor by local governments, or private individuals.
- B. It is not the intent of this order to limit expenditure of State funds for the following purposes: funding which is a condition of a State permit process; or assistance pursuant to programs entirely unrelated to promotion of new development, such as State retirement benefits or welfare benefits. exceptions may be allowed after consultation with the Secretary of State, including the maintenance of existing public channel improvements, public shoreline protection, and related public structures, including the disposal of dredge material related to such improvements; the maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or operated roads, structures, or facilities that are essential links in a larger network or system; the maintenance, replacement, reconstruction, or repair, but not the expansion, of existing coastal development; new development for water dependent uses which require a location in a coastal hazard area, including public recreational facilities; projects for the study, management, protection, and enhancement of natural resources and recreation; scientific research, including atmospheric, geologic, marine, fish and wildlife, and other research, development, and applications such as the monitoring of coastal erosion impacts, consistent with this order; acquisition of land for purposes of recreation, open space, and reduction of coastal hazard impacts; softstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems; and, assistance for emergency actions essential to the saving of lives and the protection of public health and safety that are necessary to alleviate the emergency.

New York State Department of State Division of Coastal Resources and Waterfront Revitalization

Limits on State Expenditures in Hazard Areas Analysis of Impacts

June 1994

Introduction

The explicit and implied goals of the Coastal Barrier Resources Act (CBRA) include protection of natural resources, reduction of federal costs for coastal management, and reduction in dependence on engineering solutions to coastal erosion problems. The CBRA achieves these goals by prohibiting expenditure of federal funds which promote development on barrier landforms. The inherent policy is that public dollars should not be spent to support unwise development of hazardous coastal locations.

Since passage of the Coastal Barrier Resources Act in 1982 there has been discussion in New York State of limiting State agency expenditures within federally designated areas. This idea was formally recommended by the Governor's Task Force on Coastal Resources in its final report of November, 1991. The recommendation stated: " The Governor should issue an Executive Order requiring State Agencies to limit public subsidies and expenditures in federally identified Coastal Barrier Resource Act areas, in coastal high hazard areas, and in additional areas identified as such in the regional elements..." The Task Force expressed concern for State expenditures for public services and infrastructure which promote unwise use of hazardous coastal locations. The recommendation was not intended to preclude open space acquisition or public expenditures to provide reasonable public access to the shore for recreation. A similar proposal by the Governor's Task Force on Coastal Erosion recommends State action that would focus on areas designated in the federal CBRA legislation and coastal hazard areas. Coastal hazard areas are defined as Coastal Erosion Hazard Areas (CEHA's) designated in the State Coastal Erosion Hazard Areas Act and V-zones designated on federal Flood Insurance Rate Maps. These recommendations are in keeping with CBRA findings which stated the need for a program of coordinated action by Federal, State, and local governments to ensure appropriate use and conservation of coastal barriers.

Background

Coastal Barrier Resources Act

The Department of Interior established a task force in 1977 to map the Atlantic and Gulf Coast barrier chain that remained undeveloped and unprotected by public ownership. The concern was that undeveloped barrier landforms, an important natural resource, were rapidly disappearing because of a sharp increase in coastal development. This concern was heightened by a General Accounting Office report which indicated that the National Flood Insurance Program was providing an incentive to coastal development. The work of the task force, combined with some of the latest research regarding the resource value of barrier islands and the potential impacts of development and attendant shore protection, resulted in the Coastal Barrier Resources Act. Signed on October 18, 1982, the Act (P.L. 97-348) established a Coastal Barrier Resources System (CBRS) to be administered by the U.S. Fish and Wildlife Service. The system included 656 miles of "undeveloped barrier shoreline" requiring protection. Undeveloped barriers are depositional geologic features that consist of unconsolidated sedimentary materials subject to wave, tidal, and wind energies, which protect landward aquatic habitats from direct wave attack, and have a development density of less than 1 structure per five

acres. Furthermore, inclusion in the system was limited to areas not included within the boundaries of an area already protected under Federal, State, or local law or held by a qualified organization primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

Protection was afforded through a prohibition on all expenditure of federal funds for development, including flood insurance. Section 5 of the Coastal Barrier Resources Act provided that "no new expenditure or new financial assistance may be made available under authority of any Federal law for any purpose within the Coastal Barrier Resources System..." Financial assistance is clarified to mean any form of direct or indirect assistance, including but not limited to construction or purchase of any structure, appurtenance, facility or related infrastructure; the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any system unit; and the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except in cases where an emergency threatens life, land, and property immediately adjacent to that unit. After October 1983 the CBRA amended the National Flood Insurance Act to eliminate any new flood insurance coverage for any new construction or substantial improvements of structures located on any coastal barrier within the CBRS. However, federally insured financial institutions were still permitted to make loans secured by structures which were not eligible for flood insurance as a result of this Act.

Exceptions to the use of federal funds in CBRS units include general revenue-sharing grants; FDIC type bank account insurance; the Federal purchase of mortgages or loans; funding incident to a Federal permit process; or, assistance pursuant to programs entirely unrelated to development, such as any Federal or Federally assisted public assistance program or any Federal old-age survivors or disability insurance program. Other exceptions may be allowed after consultation with the Secretary of the Interior, including any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to coastal water areas; the maintenance of existing channel improvements and related structures, including the disposal of dredge materials related to such improvements; the maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or operated roads, structures, or facilities that are essential links in a larger network or system; military activities essential to national security; the construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto; projects for the study, management. protection, and enhancement of fish and wildlife resources and habitats, and recreational projects; the establishment, operation, and maintenance of air and water navigation aids and devices; scientific research; assistance for emergency actions that are necessary to alleviate the emergency; nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems; and projects under the Land and Water Conservation Fund Act of 1965 and the Coastal Zone Management Act of 1972. All federal agencies administering programs within the system were affected. CBRA recognized that federally funded infrastructure projects and flood insurance were supporting inappropriate development on barrier islands. Within New York State 12 areas were included in the CBRS (Table 1, unit numbers begin with F).

The Coastal Barrier Improvement Act The Coastal Barrier Improvement Act (CBIA) (P.L. 101-591) was signed into law on November 16, 1990. Its purpose was to reauthorize and amend the CBRA. Among other amendments, it expanded the CBRS, adding many new areas around the nation and within New York State (Table 1, unit numbers begin with NY). "Otherwise protected" units were designated for areas held for conservation purposes under Federal, State, or local law, or held by an approved organization. The CBIA amends the National Flood Insurance Act to state that structures built within these otherwise protected areas after November 16, 1991 will not be eligible for Federal flood insurance unless the structures "are used in a manner consistent with the purpose for which the area is protected." If elected by the local owner, otherwise protected areas could be fully included in the CBRS, which would eliminate all federal subsidies for development. CBIA also directs the U.S. Fish and Wildlife Service to at least once every 5 years review the CBRS maps and make such minor and technical modifications to boundaries as may be necessary to correct for results of natural forces.

Analysis

Impact of Federal Laws in New York State Along the coast of New York approximately 90 areas have been designated as either otherwise protected (Table 1, unit number followed by "P") or CBRS areas. There is no evidence available to specifically address the impact of the CBRA in most units around the State. Although no new development has occurred at most sites since 1982, the contribution of CBRA in causing this cannot easily be separated from other factors, such as the economic recession. Nevertheless, the lack of Federal funds, particularly flood insurance, has presumably deterred some coastal development along protected barriers. However, development continued in at least one area despite its CBRS designation. The barrier spit east of Shinnecock Inlet was included in the CBRS in 1982, but development of single-family residences continued. All of the homes that were constructed were expensive, large structures, each probably exceeding \$1 million in value. Apparently, elimination of federal flood insurance, which has a claims cap of \$240,000 per structure (including contents), was not a major factor in deterring development of this site. In addition, there are several sites in New York where boundary locations for CBRS units are being challenged by property owners who either want to develop or relocate homes.

Examination of the CBRA consequences in New York State suggests that while it may be having the impact of reducing construction in certain areas of the coastline, the disincentive to development has a greater impact on lower income households. Lower income house holds have a greater dependency on federal support, especially flood insurance, and would be less likely to develop in an area where these subsidies were not available. Higher income households, however, would be less likely to need federal support since the amount available would be a relatively small percentage of total development costs for a large house. Such was the case for development in a CBRS unit near Shinnecock Inlet. The net result is a unstated program preference toward new coastal development only by high income households.

Elimination of State Funds As presented above, the Governor's Task Force on Coastal Resources and the Task Force on Coastal Erosion have both recommended that State funds which promote development be eliminated in CBRS units. It is evident that simply eliminating Federal funds is not a deterrent to development in New York State. It is uncertain how much additional impact elimination of State funds would have in achieving the goals of the CBRA at designated sites. Development could still proceed with private and local government funding, however, it can be assumed that elimination of Federal and State funds would be a disincentive to further CBRS development.

Most, if not all, sites included in the CBRS are in coastal hazard locations. Preventing unwise development within hazardous sites is an important proactive coastal management goal that, over the long-term, will ensure public safety, protect natural resources, and reduce the use of limited public funds for unwise development and subsequent shoreline protection in coastal hazard areas. The long-term benefits to the State and its residents will outweigh any potential short term loss of development values at these hazardous sites. Where development values are high for private individuals and local governments, they can proceed with development at their cost. With this executive order the State would simply be executing wise fiscal responsibility by withhold funds which promote development in hazards areas; there is no attempt on the part of the State to block private development or to remove existing development through regulation, and thus the private property "takings" issue would not be a concern. The implementation procedure recommended by the Task Force on Coastal Resources was issuance of an Executive Order from the Governor's Office to direct State agencies to limit expenditures in CBRS units. The impact of this Executive Order would apply only to the areas listed in Table 1.

In addition to the elimination of State funds in Federal CBRS units, the Task Force on Coastal Resources and the Task Force on Coastal Erosion have also recommended expanding the ban on State funds which promote development to all coastal hazard areas. As defined by the Coastal Erosion Task Force, this would include all V-zones defined on National Flood Insurance Program Flood Insurance Rate Maps, and Coastal Erosion Hazard Areas defined by the Coastal Erosion Hazard Areas Act. This recommendation departs from several CBRA definitions, which could have significant impact if implemented.

As discussed above, in order for an area to qualify for inclusion in the CBRS it must be a barrier landform subject to wave and tidal action. In New York State, it is not certain if all V-zones meet this criteria. It is known that many CEHA's include bluff and mainland beaches. Thus, shoreline protection through elimination of State development funds could be extended to all coastal landforms. Furthermore, if all V-zone and CEHA's are included in the State ban on development funds, heavily populated areas would be included along with undeveloped lands. As discussed above, CBRA only includes property with a development density of 1 structure per 5 acres or less. V-zones and CEHA's are defined regardless of the level of development. Implementation of this recommendation could result in no State funding for development (including shore protection if not exempted) in heavily developed areas. This would be in direct conflict with certain goals and principles developed by the Coastal Erosion Task Force, and

would likely meet with political opposition. However, review of V-zone maps and CEHA maps around the State suggests that most heavily developed shorelines are outside of the V-zones and CEHA erosion zones. For example, both the V-zone and the Erosion Hazard Line extend inland to the dunes, and thus exclude all residential and commercial structures in the heavily developed locations of Coney Island, Rockaway, Long Beach, and Bayville.

Despite the problems discussed, the Executive Order should proceed to limit State expenditures within CBRS units. Several options exist for implementation of a ban on State expenditures beyond the CBRS units. In order to minimize conflicts with the goals and principles of the Coastal Erosion Task Force the limit on State expenditures in V-zones and CEHA's could apply only to those areas which had defined minimum development densities. This would ensure protection for relatively undeveloped and natural shorelines. Alternatively, the limit on State dollars could apply to certain types of development projects. For example, some types of shore protection might still be permitted. This could be used to reinforce an expressed Task Force preference for use of soft erosion control methods, but elimination of hard alternatives in heavily developed areas could still be problematic. Elimination of State funds could be used to control new growth in hazard areas. Funds for new or expanded infrastructure could be eliminated while still permitting maintenance funding. Alternatively, some combination of expenditure limits and development density could be applied on a graduated scale. For example, State funding for all types of shore protection might be permitted in heavily developed areas, only soft protection methods in moderate and lightly developed areas, and no State expenditures for shoreline protection in undeveloped areas. Similar limits on funds promoting growth and development in V- zones and CEHA's could be generated for varying levels of existing development.

Presently, the Governor's Task Force on Coastal Erosion is debating the appropriate level of State expenditure for shoreline protection at various locations. The Task Force has stated a preference toward protecting heavily developed shorelines. The Task Force has not eliminated the possibility of shore protection for moderate and lightly developed areas. Recent Task Force discussion has focused on providing shoreline protection to a level commensurate with benefits received by the State. Any effort to expand the CBRA concept beyond CBRS units would have to consider the final recommendations of the Coastal Erosion Task Force in order to avoid conflicts within the coastal management program.

Although each Task Force has recommended limiting State expenditures in CBRS units and coastal hazard areas to achieve the CBRA goals, each has also recommended that exceptions apply. A major concern is that State funding which promotes development for recreational purposes and public access to the shoreline, and scientific research, not be eliminated. Likewise, many of the other exceptions listed in the CBRA and presented above, should have similar exceptions at the State level, and should be included in the Executive Order. Each of the CBRA exceptions should be reviewed for application to the State level. In some cases, the State may wish to eliminate some exceptions, such as an exception for mortgage funding from State chartered banks. In other cases, new exceptions should be included to ensure funding for state priorities, such as the coastal erosion monitoring program.

Given the need for distribution of CBRS unit maps to State agencies and the likelihood of questions regarding eligible funding, exceptions, and unit boundaries, the Executive Order could designate the Department of State as the point-of-contact for this effort. If the Executive Order simply includes present CBRS units, the cost for administration would be limited. If, however, the Executive Order includes a limit on State funds which promote development in V-zones and CEHA's, then the cost to the Department of State for mapping, distribution of materials, and answering inquiries could be significant and may require the addition of staff.

Enforcement of the executive order could have several options. The executive order could lay out very general guidelines for compliance, and have each agency consult with the Department of State for exceptions. This would have the advantage of ensuring that all actions are consistent with the State Coastal Management Program, but could impose a significant increase in work load on DOS and increase the review time required before agencies could undertake the action. Another alternative is to have each agency make their own determination as to the consistency of the expenditure with the executive order. This would minimize any time delay caused by the review, but consistency with the State coastal policies would not be assured. Furthermore, it is not clear that agencies would have the incentive to fairly implement the executive order as intended. A third alternative would be for the executive order to direct the Department of State, in consultation with the other affected agencies, to develop explicit guidelines for implementation. Once established, each agency could use them to guide its actions relative to the executive order. This would result in a compromise between stricter enforcement and review delays, but would increase the length of time before the executive order could be implemented.

TABLE 1
COASTAL BARRIER RESOURCE SYSTEM UNITS IN NEW YORK STATE

LONG ISLAND REGION Fisher Island Barrier Suffolk Southold Did Sound, Block Isl Sound, Stony Bch, Hay Hbr, Island Barrier Suffolk Suffork Sutfolk Sutfolk Sufferson, Belle Texe, Poquet, Brookhaven Suffolk Sammys Beach Suffolk East Hampton Gardiners Bay, Jupper Bch, Lower Bch, Coecles In Nichols Pt, Reel Pt, Cedar Island Barriers Suffolk East Hampton Gardiners Bay, Acabonack Hbr, Louse Pt, Gerard Gardiners Island Barriers Suffolk East Hampton Gardiners Bay, Bostwick Cft, Bost		UNIT	UNIT NAME	COUNTY	MUNICIPALITY	LOCATION
FO1 Fisher Island Barrier Suffolk Southold F02 Eatons Neck Suffolk Asharoken F04 Crane Neck Suffolk Old Field F05 Old Field Beach Suffolk Old Field Port F06 Shelter Island Barriers Suffolk Shelter Island F08A Sammys Beach Suffolk East Hampton F09 Gardiners Island Barriers Suffolk East Hampton F10 Napeague Suffolk East Hampton F11 Mecox Suffolk Southampton (V) F12 Southampton Beach Suffolk Southampton (V)				LON	G ISLAND REGION	
F02 Eatons Neck Suffolk Asharoken F04 Crane Neck Suffolk Old Field F05 Old Field Beach Suffolk Old Field, Port Jefferson, Belle Terre, Poquott, Brockhaven F06 Shelter Island Barriers Suffolk East Hampton F08A Sammys Beach Suffolk East Hampton F09 Gardiners Island Barriers Suffolk East Hampton F10 Napeague Suffolk East Hampton F11 Mecox Suffolk East Hampton F11 Mecox Suffolk Southampton (V) F12 Southampton Beach Suffolk Southampton (V)	-	FO1	Fisher Island Barrier	Suffolk	Southold	Li Sound, Block isl Sound, Stony Bch, Hay Hbr, Island Pond
F04 Crane Neck Suffolk Old Field Port F05 Old Field Beach Suffolk Old Field, Port F06 Shelter Island Barriers Suffolk Shelter Island F08A Sammys Beach Suffolk East Hampton F09 Gardiners Island Barriers Suffolk East Hampton F10 Napeague Suffolk East Hampton F11 Mecox Suffolk Southampton F12 Southampton Beach Suffolk Southampton (7)	8	F02	Eatons Neck	Suffolk	Asharoken	LI Sound, Eatons Neck, Eatons Neck Pt
F05 Old Field Beach Suffolk Old Field, Port Jefferson, Belle Terre, Poquott, Brookhaven Shelter Island Barriers Suffolk Shelter Island F08A Sammys Beach Suffolk East Hampton F09 Gardiners Island Barriers Suffolk East Hampton F10 Napeague Suffolk East Hampton Suffolk Southampton Suffolk Southampton Southampton (T) Southampton (T) Southampton (T) Southampton (T) Southampton (T) Southampton (T)	က	F04	Crane Neck	Suffolk	Old Field	LI Sound, Crane Neck, Flax Pond
F06Shelter Island BarriersSuffolkEast HamptonF08ASammys BeachSuffolkEast HamptonF09Gardiners Island BarriersSuffolkEast HamptonF10NapeagueSuffolkEast HamptonF11MecoxSuffolkSouthampton (V)F12Southampton BeachSuffolkSouthampton (T)	4	F05	Old Field Beach	Suffolk	Old Field, Port Jefferson, Belle Terre, Poquott, Brookhaven	Li Sound, Old Field Bch, Mt. Misery Pt, Port Jefferson Hbr
F08A Sammys Beach Suffolk East Hampton F08B Acabonack Harbor Suffolk East Hampton F19 Gardiners Island Barriers Suffolk East Hampton F10 Napeague Suffolk East Hampton F11 Mecox Suffolk Southampton F12 Southampton Beach Suffolk Southampton (T)	D.	F06	Shelter Island Barriers	Suffolk	Shelter Island	Gardiners Bay, Upper Bch, Lower Bch, Coecles Inlet, Nichols Pt, Reel Pt, Cedar Isl
F08B Acabonack Harbor Suffolk East Hampton F09 Gardiners Island Barriers Suffolk East Hampton F10 Napeague Suffolk East Hampton F11 Mecox Suffolk Southampton (V) F12 Southampton Beach Suffolk Southampton (T)	ဖ	F08A	Sammys Beach	Suffolk	East Hampton	Gardiners Bay, Sammys Bch, Three Mile Hbr, Maidstone Park Bch
F10 Napeague Suffolk East Hampton F11 Mecox Suffolk Southampton F12 Southampton Beach Suffolk Southampton (T)	7	F08B	Acabonack Harbor	Suffolk	East Hampton	Gardiners Bay, Acabonack Hbr, Louse Pt, Gerard Park
F10 Napeague Suffolk East Hampton F11 Mecox Suffolk Southampton F12 Southampton Beach Suffolk Southampton (V)	&	F09	Gardiners Island Barriers	Suffolk	East Hampton	Gardiners Bay/Block Isl Sound, Cartwright Isl, Cherry Hill Pt, Bostwick Pt, Bostwick Grk, Bostwick Bay, Great Pond, Tobaccolot Bay, Tobaccolot Pond, Cherry Hbr, Home Pond
F11 Mecox Suffolk Southampton F12 Southampton Beach Suffolk Southampton (V)	6	F10	Napeague	Suffolk	East Hampton	Atlantic Ocean/Napeague Bay, Napeague Hbr
F12 Southampton Beach Suffolk Southampton (V)	10	F11	Месох	Suffolk	Southampton	Atlantic Ocean, Mecox Bay, Watermill Bch
	11	F12	Southampton Beach	Suffolk	Southampton (V) Southampton (T)	Atlantic Ocean, Shinnecock Bay, Shinnecock Spit

	UNIT	UNIT NAME	COUNTY	MUNICIPALITY	LOCATION
12	F13/F13P	Tiana Beach	Suffolk	Southampton	Atlantic Ocean, Tiana Bch, East Pt, Shinnecock Bay, Shinnecock Inlet
13	NY-03	Sands Point	Nassau	Sands Point	LI Sound, west side of Sands Pt
4	NY-04P	Prospect Point	Nassau	Sands Point	LI Sound, Prospect Pt
15	NY-05P	Dosoris Pond	Nassau	Lattingtown Glen Cove	LI Sound, East Bch, Dosoris Pond
16	NY-06/NY-06P	The Creek Beach	Nassau	Lattingtown	LI Sound, The Creek Bch, Frost Crk, Stehli Bch, Fox Pt
17	NY-07P	Centre Island	Nassau	Centre Island Bayville	LI Sound, Centre Island Bch
18	NY-09P	Lloyd Beach	Suffolk	Lloyd Harbor	LI Sound, Lloyd Bch, West Neck Bch
61	NY-10	Lloyd Point	Suffolk	Lloyd Harbor	Li Sound/Cold Spring Hbr, Lloyd Pt
20	NY-11/NY-11P	Lloyd Harbor	Suffolk	Lloyd Harbor Huntington Bay	LI Sound/Huntington Bay, East Bch, Lloyd Hbr, Sandy Pt, East Fort Pt
21	NY-12	Centerport Harbor	Suffolk	Huntington	LI Sound/Northport Bay, Centerport Hbr, Centerport Bch
22	NY-13	Hobart Beach	Suffolk	Huntington	LI Sound/Huntington Bay/Northport Bay, Hobart Bch, West Bch
23	NY-14	Crab Meadow	Suffolk	Huntington	Ll Sound, Crab Meadow, Makamah Bch
24	NY-15	Sunken Meadow	Suffolk	Nissequogue Smithtown	LI Sound, Sunken Meadow State Park, Short Bch, Nissequogue River, Callahans Bch
25	NY-16	Stony Brook Harbor	Suffolk	Nissequogue Smithtown Head of Harbor	Li Sound, Long Bch, Youngs Isl, Stony Brook Hbr

	UNIT	UNIT NAME	COUNTY	MUNICIPALITY	LOCATION
26	NY-17/NY-17P	Cedar Beach	Suffolk	Port Jefferson Brookhaven	LI Sound, Cedar Bch, Mt. Sinai Hbr
27	NY-18	Wading River	Suffolk	Brookhaven Riverhead	LI Sound, Wading River
28	NY-19	Baiting Hollow	Suffolk	Riverhead	LI Sound, Fresh Pond Landing
29	NY-20P	Luce Landing	Suffolk	Southold	Ll Sound, near Luce Landing
30	NY-21P	Mattituck Inlet	Suffolk	Southold	Ll Sound, Mattituck Inlet, Mattituck Crk
31	NY-22P	Goldsmith Inlet	Suffolk	Southold	Li Sound, Goldsmith Inlet
32	NY-23P	Truman Beach	Suffolk	Southold	Ll Sound/Gardiners Bay, Orient Hbr, Truman Bch, Dam Pond
33	NY-24	Plum Island	Suffolk	Southold	Gardiners Bay, Plum Gut, Plum IsI, Pine Pt
34	NY-25	Orient Beach	Suffolk	Southold	Gardiners Bay, Orient Hbr, Long Bch, Orient Bch State Park, Long Bch Bay, Little Bay, Peters Neck, Browns Pt
35	NY-26	Pipes Cove	Suffolk	Southold	Pipes Cove, near Arshamonaque
36	NY-27	Conkling Point	Suffolk	Southold	Shelter Isl Sound, Conkling Pt
37	NY-28	Southold Bay	Suffolk	Southold	Shelter isl Sound, Southold Bay, Goose Crk, Jockey Crk, Town Crk
38	NY-29P	Cedar Beach Point	Suffolk	Southold	Little Peconic Bay, Cedar Bch Pt, Cedar Bch Crk
39	NY-30	Hog Neck Bay	Suffolk	Southold	Little Peconic Bay, Hog Neck Bay, Corey Crk, Richmond Crk
40	NY-31/NY-31P	Little Creek	Suffolk	Southold	Little Peconic Bay, Little Crk, Broadwater Cove
41	NY-32	Downs Creek	Suffolk	Southold	North Race/Great Peconic Bay, Downs Crk
		,			

	UNIT	UNIT NAME	COUNTY	MUNICIPALITY	LOCATION
42	NY-33	Robins Island	Suffolk	Southold	North Race/Great Peconic Bay, NW corner of Robins Isl
43	NY-34	East Creek	Suffolk	Riverhead	Great Peconic Bay, East Crk
44	NY-35	Indian Island	Suffolk	Riverhead	Great Peconic Bay/Flanders Bay, Indian Isl, Terrys Crk
45	NY-36	Flanders Bay	Suffolk	Southampton	Flanders Bay, Goose Crk, Goose Crk Pt, Cow Yard, Birch Crk, Hubbard Crk, Red Cedar Pt
46	NY-37	Red Creek Pond	Suffolk	Southampton	Great Peconic Bay, Red Creek Pond
47	NY-38	Squire Pond	Suffolk	Southampton	Great Peconic Bay, Squire Pond
48	NY-39	Cow Neck	Suffolk	Southampton	Great Peconic Bay, Sebonac Crk, Little Sebonac Crk, West Neck Crk, Island Crk, Scallop Pond
49	NY-40/NY-40P	North Sea Harbor	Suffolk	Southampton	Little Peconic Bay, North Sea Hbr, Davis Crk, Towd Pt, Conscience Pt
50	NY-41/NY-41P	Clam Island	Suffolk	Southampton	Noyack Bay/Little Peconic Bay, Clam Isl, Noyack Crk, Jessup Neck, Morton NWR
51	NY-42	Mill Creek	Suffolk	Southampton	Noyack Bay, Mill Crk
52	NY-43/NY-43P	Short Beach	Suffolk	North Haven Sag Harbor Southampton	Noyack Bay, Long Bch, Sag Hbr Cove, Paynes Crk
53	NY-44	Gleason Point	Suffolk	North Haven	Shelter Isl Sound, Gleason Pt
54	NY-45	Shell Beach	Suffolk	Shelter Island	Shelter isl Sound, West Neck Hbr, Shell Bch, Dickerson Crk
55	NY-46	Crab Creek	Suffolk	Shelter Island	Little Peconic Bay, Crab Crk Pt, Crab Crk
56	NY-47	Hay Beach Point	Suffolk	Shelter Island	Gardiners Bay, Hay Bch Pt

	UNIT	UNIT NAME	COUNTY	MUNICIPALITY	LOCATION
57	NY-48	Mashomack Point	Suffolk	Sheiter Island	Gardiners Bay/Shelter Isl Sound, Mashomack Pt, Gibsons Bch, Majors Hbr
58	NY-49	Smith Cove	Suffolk	Shelter Island	Shelter Isl Sound, Smith Cove
59	NY-50	Fresh Pond	Suffolk	North Haven	Sag Harbor Bay, Fresh Pond
09	NY-51/NY-51P	Northwest Harbor	Suffolk	East Hampton	Gardiners Bay, Northwest Harbor, Cedar Pt, Cedar Pond, Northwest Crk, Alewife Brook
61	NY-52	Hog Creek	Suffolk	East Hampton	Gardiners Bay, Hog Creek
62	NY-53	Big Reed Pond	Suffolk	East Hampton	Block Isl Sound, Big Reed Pond, Little Reed Pond
63	NY-54	Oyster Pond	Suffolk	East Hampton	Block Isl Sound, Oyster Pond
64	NY-55	Montauk Point	Suffolk	East Hampton	Block Isl Sound, Montauk Point State Park, False Point
65	NY-56/NY-56P	Amagansett	Suffolk	East Hampton	Atlantic Ocean, Amagansett Bch
99	NY-57	Georgica/Wainscott Ponds	Suffolk	East Hampton(T) East Hampton(V)	Atlantic Ocean, Georgica Pond, Wainscott Pond, Wainscott Bch
67	NY-58	Sagaponack Pond	Suffolk	Southampton	Atlantic Ocean, Sagaponack Pond
89	NY-59/NY-59P	Fire Island	Nassau Suffolk	Hempstead Oyster Bay Babylon, Islip Brookhaven Saltaire Ocean Beach Southampton	Atlantic Ocean, Lido Bch, Jones Isl, Fire Isl, Great South Bay, Oyster Bay, Moriches Bay, Cupsoque Bch
69	NY-60P	Jamaica Bay	Kings Queens	New York City	Atlantic Ocean, Jamaica Bay, Rockaway Bch, Plumb Bch, Floyd Bennett Field, Rulers Bar Hassock, Canarsie Pol, Old Mill Crk, Jacob Riis Park

	UNIT NUMBER	UNIT NAME	COUNTY	MUNICIPALITY	LOCATION
			GRE	GREAT LAKES REGION	
70	NY-61	Wilson Bay	Jefferson	Cape Vincent	Lake Ontario, Wilson Bay
71	NY-62	Grenadier Island	Jefferson	Cape Vincent	Lake Ontario, Grenadier Island
72	NY-63	Fox Island	Jefferson	Cape Vincent	Lake Ontario, Fox Ist, Basin Hbr, Little Grenadier Island
73	NY-64	The Isthmus	Jefferson	Lyme	Lake Ontario, The Isthmus, Chaumont Bay
74	NY-65	Point Peninsula	Jefferson	Lyme	Lake Ontario, Point Peninsula
75	NY-66	Hounsfield	Jefferson	Hounsfield	Lake Ontario, NE tip of Stony Isl
76	<i>L</i> 9-AN	Dutch John Bay	Jefferson	Hounsfield	Lake Ontario, Stony Isl
77	89-AN	Sherwin Bay	Jefferson	Brownville	Lake Ontario, Sherwin Bay
78	69-AN	Association Island	Jefferson	Henderson Hounsfield	Lake Ontario, Snowshoe Bay, Six Town Pt
79	NY-72	North Pond	Jefferson Oswego	Ellisburg Sandy Creek	Lake Ontario, North Pond & barriers
80	E2-AN	Deer Creek Marsh	Oswego	Richland	Lake Ontario, Deer Crk, N. of Selkirk
81	NY-74	Grindstone Creek	Oswego	Richland	Lake Ontario, Grindstone Crk, S. of Selkirk Shores
82	NY-75	Butterfly Swamp	Oswego	New Haven	Lake Ontario, Butterfly Crk, Butterfly Swamp
83	NY-76	Walker	Oswego	City of Oswego Scriba	Lake Ontario, NE. of City of Oswego
84	17-YN	Snake Swamp	Oswego	Town of Oswego	Lake Ontario, Snake Swamp, SW of City of Oswego
85	NY-78	Juniper Pond	Cayuga	Sterling	Lake Ontario, Juniper Pond

	UNIT	UNIT NAME	COUNTY	MUNICIPALITY	LOCATION
86	67-YN	Blind Sodus Bay	Cayuga Wayne	Sterling Wolcott	Lake Ontario, Blind Sodus Bay, W. of Little Sodus Bay
87	NY-82	Port Bay	Wayne	Wolcott	Lake Ontario, E. of Port Bay
88	NY-84	Maxwell Bay	Wayne	Sodus	Lake Ontario, Maxwell Bay, Salmon Crk
89	NY-86	Bogus Point	Monroe	Parma	Lake Ontario, between Bogus Pt and Payne Bch
06	NY-87	Big Sister Creek	Erie	Evans	Lake Erie, Big Sister Crk, N. of Angola-on-the-Lake



STATE OF NEW YORK DEPARTMENT OF STATE ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER SECRETARY OF STATE

MEMORANDUM

TO:

Joseph Martens

FROM:

James N. Baldwin

SUBJECT: Proposed Executive Order on State Agency Expenditures in Coastal Hazard Areas

In its November 1991 report, the Governor's Task Force on Coastal Resources recommended that: "The Governor should issue an Executive Order requiring State Agencies to limit public subsidies and expenditures in federally identified Coastal Barrier Resources Act areas, in coastal hazard areas, and in additional areas identified in the regional elements...." The Governor's Coastal Erosion Task Force is making a similar recommendation to: "Limit State agencies from expending funds which promote new development in coastal hazard areas and Coastal Barrier Resources Act areas."

In accordance with these recommendations, the Department of State's Division of Coastal Resources and Waterfront Revitalization analyzed the potential impacts that this Executive Order could have. The analysis concluded that the Order should focus only on prevention of new development in coastal hazard areas and coastal barrier resource (CBRA) areas through removal of State financial support for projects which support new development. A copy of the analysis, explaining the Coastal Barrier Resource Act, is provided for your information.

Based on the analysis, a proposed Executive Order has been prepared. A draft copy is attached for your information. Our examination of the location of hazard and CBRA areas indicates the Executive Order would affect only a thin strip of land parallel to the Great Lakes and the marine shoreline. In most locations there is no existing development within this strip, so the impact would only be a deterrent to new development. However, in a few locations, such as Fire Island and along sections of the Long Island north shore bluffs, presently developed land is within the hazard zone. State support for new development in these areas would be affected. Numerous exceptions are presented in the Order.

We have distributed the draft Executive Order to other State agencies for their review and comment. Based on agency comments, the Executive order will be revised and forwarded to you for additional review.

JNB:lvs Attachment

cc:

David Boyle

Laura Chasin Peter Sistrom Identical copies of the executive order and the analysis of impacts which accompanied the previous memo-attachment 1 - were included with this memo to the Governor's Office.

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